

1984 WL 249811 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 24, **1984**

*1 The Honorable Frank H. McGill

Senator

District No. 11

502 Gressette Building

Columbia, South Carolina 29202

Dear Senator McGill:

You have asked this office whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a member of the Williamsburg County Board of Education to also serve on the Williamsburg County Election Commission.

[Article XVII, Section 1A, of the South Carolina Constitution](#) provides that ‘. . . no person shall hold two offices of honor or profit at the same time.’ In [Sanders v. Belue](#), 78 S.C. 177, 58 S.E. 762 (1907), the Court defined a public office as one which is ‘created by law,’ includes the exercise of some ‘sovereign power, either small or great, of which the public is concerned,’ and requires some continuing performance. In [State v. Crenshaw](#), 274 S.C. 475, 266 S.E. 2d 61 (1980), the Court elaborated upon the criteria to be examined in determining whether a position is a public office; whether the duties, tenure, salary, bond or oath are prescribed or required, and whether the one occupying the position is a representative of the sovereign are other important factors to be considered.

This office has consistently held that members of county boards of education are public officers for the purposes of dual office holding. E.g., 1983 Op. Atty. Gen., dated February 8, 1983 (copy enclosed). This is true ‘regardless of whether the members are elected or appointed, as their duties involve an exercise of the sovereign power of the State.’ 1983 Op. Atty. Gen., Continuation Sheet Number 2, dated July 8 (copy enclosed).

Similarly, this office has previously determined that members of election commissions hold offices within the meaning of the dual office holding prohibitions of the Constitution. 1983 Op. Atty. Gen., dated July 8, supra; 1983 Op. Atty. Gen., dated September 24 (copy enclosed).

In conclusion then, it is the opinion of this office that concurrent service on the Williamsburg County Board of Education and the Williamsburg County Election Commission would contravene the dual office holding prohibitions of the South Carolina Constitution.

Sincerely,

Patricia D. Petway

Staff Attorney

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